

STATE OF NEW YORK : DEPARTMENT OF HEALTH

IN THE MATTER

OF

ANTONIA C. NOVELLO, M.D., M.P.H., Dr. P.H., as Commissioner
of Health of the State of New York, to determine the action to be taken
with respect to:

STIPULATION

AND

CONCORD NURSING HOME, INC.

ORDER

Respondent,

#NH-06-03

as operator of

CONCORD NURSING HOME, INC.

300 Madison Street

Brooklyn, New York 11216

arising out of alleged violations of Article 28 of the Public Health
Law of the State of New York and Title 10 (Health) of the Official
Compilation of Codes, Rules and Regulations of the State of New York.

WHEREAS, the New York State Department of Health (the "Department") has made
findings based upon inspections of Concord Nursing Home, Inc. (the "Respondent"), that were
conducted on October 20, 2003 and October 18, 2002 ; and

WHEREAS, the Department's inspection findings included alleged violations of Article 28
of the Public Health Law and 10 NYCRR Part 415; and

WHEREAS, the Respondent commenced a proceeding pursuant to Article 78 of the Civil
Practice Law and Rules, *In the Matter of the Application of Concord Nursing and Rehabilitation
Center, Inc., v. Antonia Novello, M.D., as Commissioner of the New York State Department of
Health*, Supreme Court, Kings County, Index No. 13885-04, seeking to expunge the findings of the
Department of Health, dated January 5, 2004, concerning its inspection of October 20, 2003, and

directing the Department to find that Concord Nursing Home, Inc. was in substantial compliance with state and federal requirements; and

WHEREAS, the Department commenced this administrative hearing against the Respondent by the service of a Notice of Hearing and a Statement of Charges, dated July 1, 2005; and

WHEREAS, the Respondent filed an Answer with the Department dated, October 3, 2005; and

WHEREAS, the parties wish to resolve these matters by means of a settlement rather than by further civil or administrative proceedings.

NOW, THEREFORE, IT IS STIPULATED AND AGREED AS FOLLOWS:

1. This matter, commenced by the aforementioned Notice of Hearing and Statement of Charges, dated July 1, 2005, is settled and discontinued with prejudice.

2. The Respondent admits that substantial evidence of violations of 10 NYCRR Part 415 existed under the citations set forth in the attached addendum. The foregoing admission made by the Respondent is solely for the purpose of resolving the instant administrative matter and is not intended for use in any other forum, tribunal or court. Any such admission is without prejudice to the Respondent's rights, defenses and claims in any other matter, proceeding, action, hearing or litigation not involving the Department. It is agreed that the foregoing admission is not intended to be used dispositively or otherwise, regarding any allegations of medical malpractice, personal injury, and/or negligence that may be made in a civil action for monetary damages.

3. The Respondent shall withdraw with prejudice its pending civil proceeding (*Index No. 13885-04*) against Antonia Novello, M.D., as Commissioner of the New York State Department of Health, commenced in the Supreme Court of Kings County.

4. Pursuant to Sections 12 and 206 of the Public Health Law, the Respondent shall pay a civil penalty of Two Thousand Dollars (\$2,000) in Ten (10) monthly installments of \$200 each. The first installment shall be due on March 1, 2006, with monthly installment payments to be due on the first day of each succeeding month until \$2,000 is paid in full. If the Respondent fails to pay an installment when due, then, at the Department's option, the entire unpaid balance shall become due and payable immediately.


5. Payments shall be sent to the New York State Department of Health, Bureau of Accounts Management, Room 1258, Corning Tower, Empire State Plaza, Albany, New York 12237-0016. Any payment not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. This includes, but is not limited to, the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection, and non-renewal of permits or licenses [Tax Law Section 171(27); State Finance Law Section 18; CPLR Section 5001; Executive Law Section 32].

6. Nothing herein contained shall be construed to preclude the Department from pursuing any and all sanctions or remedies authorized by the Public Health Law against any individual employed by or practicing in association with the Respondent for any violations identified during the inspections referred to herein. Such sanctions and remedies may include, but are not limited to, administrative proceedings brought pursuant to Public Health Law Section 2803-d (relating to patient abuse, mistreatment or neglect), Public Health Law Section 230 (relating to professional medical conduct) and Public Health Law Article 28-D (relating to the practice of nursing home administration). A copy of this Stipulation and Order may be sent to the Bureau of Nursing Home Administrator Licensure for whatever action, if any, it may deem appropriate.

8. This Stipulation and Order shall be effective upon service on the Respondent or the Respondent's attorney or representative of a copy by personal service or by certified or registered mail.

CONCORD NURSING HOME, INC.


By:


LILLIE M. BRYANT
Executive Director

DATED: Albany, New York
1-26, 2006

ANTONIA C. NOVELLO, M.D., M.P.H., Dr. P.H.
Commissioner of Health

By:


DENNIS P. WHALEN
Executive Deputy Commissioner

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New York State Department of Health
Bureau of Accounts Management
Corning Tower, Room 1258
Empire State Plaza
Albany, New York 12237-0016

ADDENDUM

CONCORD NURSING HOME, INC.

<u>DATE</u>	<u>CODE CITE - 10 NYCRR</u>	<u>VIOLATION</u>
October 18, 2002	415.12	Quality of Care
October 20, 2003	415.12	Quality of Care